

REFERENCE TITLE: failure to appear; arrest; fingerprinting

State of Arizona
House of Representatives
Fifty-second Legislature
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HB 2154

Introduced by
Representatives Borrelli: Boyer, Carter, Cobb, Fann, Finchem, Lawrence,
Senator Shooter

AN ACT

AMENDING SECTIONS 13-2506 AND 13-3903, ARIZONA REVISED STATUTES; REPEALING
SECTION 13-3904, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1750, ARIZONA
REVISED STATUTES; RELATING TO FINGERPRINTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-2506, Arizona Revised Statutes, is amended to read:

13-2506. Failure to appear in the second degree: classification

A. A person commits failure to appear in the second degree if, having EITHER:

1. Been required by law to appear in connection with any misdemeanor or petty offense, ~~such~~ THE person knowingly fails to appear as required, regardless of the disposition of the charge requiring the appearance.

2. GIVEN A WRITTEN PROMISE TO APPEAR IN COURT OR BEEN PERSONALLY SERVED WITH A WRITTEN NOTICE TO APPEAR ON A DESIGNATED DATE PURSUANT TO SECTION 13-3903, THE PERSON THEREAFTER FAILS TO APPEAR, PERSONALLY OR BY COUNSEL.

B. Failure to appear in the second degree PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION is a class 1 misdemeanor. FAILURE TO APPEAR IN THE SECOND DEGREE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION IS A CLASS 2 MISDEMEANOR.

Sec. 2. Section 13-3903, Arizona Revised Statutes, is amended to read:

13-3903. Notice to appear and complaint

A. In any case in which a person is arrested for a misdemeanor offense or a petty offense, the arresting officer may release the arrested person from custody in lieu of taking the person to a law enforcement facility by use of the procedure prescribed in this section.

B. At any time after taking a person arrested for a misdemeanor offense or a petty offense to a law enforcement facility, the arresting officer, instead of taking the person to a magistrate, may release the person from further custody by use of the procedure prescribed in this section.

C. If a person is arrested for a misdemeanor offense or a petty offense and the offense is listed in section 41-1750, subsection C, the person shall not be released pursuant to this section until the person provides either a fingerprint or a two fingerprint biometric-based identifier to the arresting agency. The arresting agency shall provide to the arrested person a mandatory fingerprint compliance form that includes instructions on reporting TO THE ARRESTING AGENCY for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.

D. In any case in which a person is arrested for a misdemeanor offense or a petty offense, the arresting officer may prepare in quadruplicate a written notice to appear and complaint, containing the name and address of the person, the offense charged, and the time and place where and when the person shall appear in court, provided:

1. The time specified in the notice to appear is at least five days after arrest.

2. The place specified in the notice shall be the court specified in section 13-3898.

3. The arrested person, in order to secure release as provided in this section, shall give his written promise so to appear in court by signing at least one copy of the written notice and complaint prepared by the arresting officer. The officer shall deliver a copy of the notice and complaint to the person promising to appear. Thereupon, the officer shall forthwith release the person arrested from custody.

4. The officer, as soon as practical, shall deliver the original notice and complaint to the magistrate specified therein. Thereupon, the magistrate shall promptly file the notice and complaint and enter it into the docket of the court.

E. The Arizona traffic ticket and complaint may be utilized not only for the purposes provided by Arizona supreme court rule, but to satisfy the requirements of this section.

F. ~~When~~ IF a person ~~has given~~ GIVES his written promise to appear in court on a designated date pursuant to this section, and thereafter fails to appear, personally or by counsel, on or before that date, the court clerk or other court staff shall file a complaint, in writing, under oath, ~~setting forth the offense of knowingly violating a written promise to appear in court in accordance with section 13-3904, and the magistrate shall issue a warrant of arrest thereon~~ CHARGING THE DEFENDANT WITH A VIOLATION OF SECTION 13-2506, SUBSECTION A, PARAGRAPH 2.

G. IF THE PERSON HAS NOT PREVIOUSLY BEEN ARRAIGNED, on the person's appearance in court for arraignment on the charge of violating section ~~13-3904~~ 13-2506, SUBSECTION A, PARAGRAPH 2, the court shall also arraign the person on the charge stated in the notice to appear and complaint for which the person had previously promised to appear.

~~G.~~ H. This section does not affect a peace officer's authority to conduct an otherwise lawful search incident to his arrest even though the arrested person is released before being taken to the police station or before a magistrate pursuant to this section.

Sec. 3. Repeal

Section ~~13-3904~~, Arizona Revised Statutes, is repealed.

Sec. 4. Section 41-1750, Arizona Revised Statutes, is amended to read:

~~41-1750.~~ Central state repository; department of public safety; duties; funds; accounts; definitions

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as a criminal defendant for a felony offense or an

1 offense involving domestic violence as defined in section 13-3601 or a
2 violation of title 13, chapter 14 or title 28, chapter 4.

3 2. Collect information concerning the number and nature of offenses
4 known to have been committed in this state and of the legal steps taken in
5 connection with these offenses, such other information that is useful in the
6 study of crime and in the administration of criminal justice and all other
7 information deemed necessary to operate the statewide uniform crime reporting
8 program and to cooperate with the federal government uniform crime reporting
9 program.

10 3. Collect information concerning criminal offenses that manifest
11 evidence of prejudice based on race, color, religion, national origin, sexual
12 orientation, gender or disability.

13 4. Cooperate with the central state repositories in other states and
14 with the appropriate agency of the federal government in the exchange of
15 information pertinent to violators of the law.

16 5. Ensure the rapid exchange of information concerning the commission
17 of crime and the detection of violators of the law among the criminal justice
18 agencies of other states and of the federal government.

19 6. Furnish assistance to peace officers throughout this state in crime
20 scene investigation for the detection of latent fingerprints and in the
21 comparison of latent fingerprints.

22 7. Conduct periodic operational audits of the central state repository
23 and of a representative sample of other agencies that contribute records to
24 or receive criminal justice information from the central state repository or
25 through the Arizona criminal justice information system.

26 8. Establish and enforce the necessary physical and system safeguards
27 to ensure that the criminal justice information maintained and disseminated
28 by the central state repository or through the Arizona criminal justice
29 information system is appropriately protected from unauthorized inquiry,
30 modification, destruction or dissemination as required by this section.

31 9. Aid and encourage coordination and cooperation among criminal
32 justice agencies through the statewide and interstate exchange of criminal
33 justice information.

34 10. Provide training and proficiency testing on the use of criminal
35 justice information to agencies receiving information from the central state
36 repository or through the Arizona criminal justice information system.

37 11. Operate and maintain the Arizona automated fingerprint
38 identification system established by section 41-2411.

39 12. Provide criminal history record information to the fingerprinting
40 division for the purpose of screening applicants for fingerprint clearance
41 cards.

42 B. The director may establish guidelines for the submission and
43 retention of criminal justice information as deemed useful for the study or
44 prevention of crime and for the administration of criminal justice.

1 C. The chief officers of criminal justice agencies of this state or
2 its political subdivisions shall provide to the central state repository
3 fingerprints and information concerning personal identification data,
4 descriptions, crimes for which persons are arrested, process control numbers
5 and dispositions and such other information as may be pertinent to all
6 persons who have been charged with, arrested for, convicted of or summoned to
7 court as criminal defendants for felony offenses or offenses involving
8 domestic violence as defined in section 13-3601 or violations of title 13,
9 chapter 14 or title 28, chapter 4 that have occurred in this state.

10 D. The chief officers of law enforcement agencies of this state or its
11 political subdivisions shall provide to the department such information as
12 necessary to operate the statewide uniform crime reporting program and to
13 cooperate with the federal government uniform crime reporting program.

14 E. The chief officers of criminal justice agencies of this state or
15 its political subdivisions shall comply with the training and proficiency
16 testing guidelines as required by the department to comply with the federal
17 national crime information center mandates.

18 F. The chief officers of criminal justice agencies of this state or
19 its political subdivisions also shall provide to the department information
20 concerning crimes that manifest evidence of prejudice based on race, color,
21 religion, national origin, sexual orientation, gender or disability.

22 G. The director shall authorize the exchange of criminal justice
23 information between the central state repository, or through the Arizona
24 criminal justice information system, whether directly or through any
25 intermediary, only as follows:

26 1. With criminal justice agencies of the federal government, Indian
27 tribes, this state or its political subdivisions and other states, on request
28 by the chief officers of such agencies or their designated representatives,
29 specifically for the purposes of the administration of criminal justice and
30 for evaluating the fitness of current and prospective criminal justice
31 employees.

32 2. With any noncriminal justice agency pursuant to a statute,
33 ordinance or executive order that specifically authorizes the noncriminal
34 justice agency to receive criminal history record information for the purpose
35 of evaluating the fitness of current or prospective licensees, employees,
36 contract employees or volunteers, on submission of the subject's fingerprints
37 and the prescribed fee. Each statute, ordinance, or executive order that
38 authorizes noncriminal justice agencies to receive criminal history record
39 information for these purposes shall identify the specific categories of
40 licensees, employees, contract employees or volunteers, and shall require
41 that fingerprints of the specified individuals be submitted in conjunction
42 with such requests for criminal history record information.

43 3. With the board of fingerprinting for the purpose of conducting good
44 cause exceptions pursuant to section 41-619.55 and central registry
45 exceptions pursuant to section 41-619.57.

1 4. With any individual for any lawful purpose on submission of the
2 subject of record's fingerprints and the prescribed fee.

3 5. With the governor, if the governor elects to become actively
4 involved in the investigation of criminal activity or the administration of
5 criminal justice in accordance with the governor's constitutional duty to
6 ensure that the laws are faithfully executed or as needed to carry out the
7 other responsibilities of the governor's office.

8 6. With regional computer centers that maintain authorized
9 computer-to-computer interfaces with the department, that are criminal
10 justice agencies or under the management control of a criminal justice agency
11 and that are established by a statute, ordinance or executive order to
12 provide automated data processing services to criminal justice agencies
13 specifically for the purposes of the administration of criminal justice or
14 evaluating the fitness of regional computer center employees who have access
15 to the Arizona criminal justice information system and the national crime
16 information center system.

17 7. With an individual who asserts a belief that criminal history
18 record information relating to the individual is maintained by an agency or
19 in an information system in this state that is subject to this section. On
20 submission of fingerprints, the individual may review this information for
21 the purpose of determining its accuracy and completeness by making
22 application to the agency operating the system. Rules adopted under this
23 section shall include provisions for administrative review and necessary
24 correction of any inaccurate or incomplete information. The review and
25 challenge process authorized by this paragraph is limited to criminal history
26 record information.

27 8. With individuals and agencies pursuant to a specific agreement with
28 a criminal justice agency to provide services required for the administration
29 of criminal justice pursuant to that agreement if the agreement specifically
30 authorizes access to data, limits the use of data to purposes for which given
31 and ensures the security and confidentiality of the data consistent with this
32 section.

33 9. With individuals and agencies for the express purpose of research,
34 evaluative or statistical activities pursuant to an agreement with a criminal
35 justice agency if the agreement specifically authorizes access to data,
36 limits the use of data to research, evaluative or statistical purposes and
37 ensures the confidentiality and security of the data consistent with this
38 section.

39 10. With the auditor general for audit purposes.

40 11. With central state repositories of other states for noncriminal
41 justice purposes for dissemination in accordance with the laws of those
42 states.

43 12. On submission of the fingerprint card, with the department of
44 child safety and a tribal social services agency to provide criminal history
45 record information on prospective adoptive parents for the purpose of

1 conducting the preadoption certification investigation under title 8, chapter
2 1, article 1 if the department of economic security is conducting the
3 investigation, or with an agency or a person appointed by the court, if the
4 agency or person is conducting the investigation. Information received under
5 this paragraph shall only be used for the purposes of the preadoption
6 certification investigation.

7 13. With the department of child safety, a tribal social services
8 agency and the superior court for the purpose of evaluating the fitness of
9 custodians or prospective custodians of juveniles, including parents,
10 relatives and prospective guardians. Information received under this
11 paragraph shall only be used for the purposes of that evaluation. The
12 information shall be provided on submission of either:

13 (a) The fingerprint card.

14 (b) The name, date of birth and social security number of the person.

15 14. On submission of a fingerprint card, provide criminal history
16 record information to the superior court for the purpose of evaluating the
17 fitness of investigators appointed under section 14-5303 or 14-5407,
18 guardians appointed under section 14-5206 or 14-5304 or conservators
19 appointed under section 14-5401.

20 15. With the supreme court to provide criminal history record
21 information on prospective fiduciaries pursuant to section 14-5651.

22 16. With the department of juvenile corrections to provide criminal
23 history record information pursuant to section 41-2814.

24 17. On submission of the fingerprint card, provide criminal history
25 record information to the Arizona peace officer standards and training board
26 or a board certified law enforcement academy to evaluate the fitness of
27 prospective cadets.

28 18. With the internet sex offender web site database established
29 pursuant to section 13-3827.

30 19. With licensees of the United States nuclear regulatory commission
31 for the purpose of determining whether an individual should be granted
32 unescorted access to the protected area of a commercial nuclear generating
33 station on submission of the subject of record's fingerprints and the
34 prescribed fee.

35 20. With the state board of education for the purpose of evaluating
36 the fitness of a certificated teacher or administrator or an applicant for a
37 teaching or an administrative certificate provided that the state board of
38 education or its employees or agents have reasonable suspicion that the
39 certificated person engaged in conduct that would be a criminal violation of
40 the laws of this state or was involved in immoral or unprofessional conduct
41 or that the applicant engaged in conduct that would warrant disciplinary
42 action if the applicant were certificated at the time of the alleged conduct.
43 The information shall be provided on the submission of either:

44 (a) The fingerprint card.

45 (b) The name, date of birth and social security number of the person.

1 21. With each school district and charter school in this state. The
2 state board of education and the state board for charter schools shall
3 provide the department of public safety with a current list of e-mail
4 addresses for each school district and charter school in this state and shall
5 periodically provide the department of public safety with updated e-mail
6 addresses. If the department of public safety is notified that a person who
7 is required to have a fingerprint clearance card to be employed by or to
8 engage in volunteer activities at a school district or charter school has
9 been arrested for or convicted of an offense listed in section 41-1758.03,
10 subsection B or has been arrested for or convicted of an offense that amounts
11 to unprofessional conduct under section 15-550, the department of public
12 safety shall notify each school district and charter school in this state
13 that the person's fingerprint clearance card has been suspended or revoked.

14 22. With a tribal social services agency and the department of child
15 safety as provided by law, which currently is the Adam Walsh child protection
16 and safety act of 2006 (42 United States Code section 16961), for the
17 purposes of investigating or responding to reports of child abuse, neglect or
18 exploitation. Information received pursuant to this paragraph from the
19 national crime information center, the interstate identification index and
20 the Arizona criminal justice information system network shall only be used
21 for the purposes of investigating or responding as prescribed in this
22 paragraph. The information shall be provided on submission to the department
23 of public safety of either:

24 (a) The fingerprints of the person being investigated.

25 (b) The name, date of birth and social security number of the person.

26 23. With a nonprofit organization that interacts with children or
27 vulnerable adults for the lawful purpose of evaluating the fitness of all
28 current and prospective employees, contractors and volunteers of the
29 organization. The criminal history record information shall be provided on
30 submission of the applicant fingerprint card and the prescribed fee.

31 24. With the superior court for the purpose of determining an
32 individual's eligibility for substance abuse and treatment courts in a family
33 or juvenile case.

34 H. The director shall adopt rules necessary to execute this section.

35 I. The director, in the manner prescribed by law, shall remove and
36 destroy records that the director determines are no longer of value in the
37 detection or prevention of crime.

38 J. The director shall establish a fee in an amount necessary to cover
39 the cost of federal noncriminal justice fingerprint processing for criminal
40 history record information checks that are authorized by law for noncriminal
41 justice employment, licensing or other lawful purposes. An additional fee
42 may be charged by the department for state noncriminal justice fingerprint
43 processing. Fees submitted to the department for state noncriminal justice
44 fingerprint processing are not refundable.

1 K. The director shall establish a fee in an amount necessary to cover
2 the cost of processing copies of department reports, eight by ten inch black
3 and white photographs or eight by ten inch color photographs of traffic
4 accident scenes.

5 L. Except as provided in subsection O of this section, each agency
6 authorized by this section may charge a fee, in addition to any other fees
7 prescribed by law, in an amount necessary to cover the cost of state and
8 federal noncriminal justice fingerprint processing for criminal history
9 record information checks that are authorized by law for noncriminal justice
10 employment, licensing or other lawful purposes.

11 M. A fingerprint account within the records processing fund is
12 established for the purpose of separately accounting for the collection and
13 payment of fees for noncriminal justice fingerprint processing by the
14 department. Monies collected for this purpose shall be credited to the
15 account, and payments by the department to the United States for federal
16 noncriminal justice fingerprint processing shall be charged against the
17 account. Monies in the account not required for payment to the United States
18 shall be used by the department in support of the department's noncriminal
19 justice fingerprint processing duties. At the end of each fiscal year, any
20 balance in the account not required for payment to the United States or to
21 support the department's noncriminal justice fingerprint processing duties
22 reverts to the state general fund.

23 N. A records processing fund is established for the purpose of
24 separately accounting for the collection and payment of fees for department
25 reports and photographs of traffic accident scenes processed by the
26 department. Monies collected for this purpose shall be credited to the fund
27 and shall be used by the department in support of functions related to
28 providing copies of department reports and photographs. At the end of each
29 fiscal year, any balance in the fund not required for support of the
30 functions related to providing copies of department reports and photographs
31 reverts to the state general fund.

32 O. The department of child safety may pay from appropriated monies the
33 cost of federal fingerprint processing or federal criminal history record
34 information checks that are authorized by law for employees and volunteers of
35 the department, guardians pursuant to section 8-453, subsection A, paragraph
36 6, the licensing of foster parents or the certification of adoptive parents.

37 P. The director shall adopt rules that provide for:

38 1. The collection and disposition of fees pursuant to this section.

39 2. The refusal of service to those agencies that are delinquent in
40 paying these fees.

41 Q. The director shall ensure that the following limitations are
42 observed regarding dissemination of criminal justice information obtained
43 from the central state repository or through the Arizona criminal justice
44 information system:

1 1. Any criminal justice agency that obtains criminal justice
2 information from the central state repository or through the Arizona criminal
3 justice information system assumes responsibility for the security of the
4 information and shall not secondarily disseminate this information to any
5 individual or agency not authorized to receive this information directly from
6 the central state repository or originating agency.

7 2. Dissemination to an authorized agency or individual may be
8 accomplished by a criminal justice agency only if the dissemination is for
9 criminal justice purposes in connection with the prescribed duties of the
10 agency and not in violation of this section.

11 3. Criminal history record information disseminated to noncriminal
12 justice agencies or to individuals shall be used only for the purposes for
13 which it was given. Secondary dissemination is prohibited unless otherwise
14 authorized by law.

15 4. The existence or nonexistence of criminal history record
16 information shall not be confirmed to any individual or agency not authorized
17 to receive the information itself.

18 5. Criminal history record information to be released for noncriminal
19 justice purposes to agencies of other states shall only be released to the
20 central state repositories of those states for dissemination in accordance
21 with the laws of those states.

22 6. Criminal history record information shall be released to
23 noncriminal justice agencies of the federal government pursuant to the terms
24 of the federal security clearance information act (P.L. 99-169).

25 R. This section and the rules adopted under this section apply to all
26 agencies and individuals collecting, storing or disseminating criminal
27 justice information processed by manual or automated operations if the
28 collection, storage or dissemination is funded in whole or in part with
29 monies made available by the law enforcement assistance administration after
30 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
31 all agencies that interact with or receive criminal justice information from
32 or through the central state repository and through the Arizona criminal
33 justice information system.

34 S. This section does not apply to criminal history record information
35 contained in:

36 1. Posters, arrest warrants, announcements or lists for identifying or
37 apprehending fugitives or wanted persons.

38 2. Original records of entry such as police blotters maintained by
39 criminal justice agencies, compiled chronologically and required by law or
40 long-standing custom to be made public if these records are organized on a
41 chronological basis.

42 3. Transcripts or records of judicial proceedings if released by a
43 court or legislative or administrative proceedings.

44 4. Announcements of executive clemency or pardon.

1 5. Computer databases, other than the Arizona criminal justice
2 information system, that are specifically designed for community notification
3 of an offender's presence in the community pursuant to section 13-3825 or for
4 public informational purposes authorized by section 13-3827.

5 T. Nothing in this section prevents a criminal justice agency from
6 disclosing to the public criminal history record information that is
7 reasonably contemporaneous to the event for which an individual is currently
8 within the criminal justice system, including information noted on traffic
9 accident reports concerning citations, blood alcohol tests or arrests made in
10 connection with the traffic accident being investigated.

11 U. In order to ensure that complete and accurate criminal history
12 record information is maintained and disseminated by the central state
13 repository:

14 1. The ~~arresting authority~~ BOOKING AGENCY shall take legible ten-print
15 fingerprints of all persons who are arrested for offenses listed in
16 subsection C of this section. ~~including persons who are arrested and released~~
17 ~~pursuant to section 13-3903, subsection C. The arresting authority may~~
18 ~~transfer an arrestee to a booking agency for ten-print fingerprinting. If~~
19 ~~the booking agency cannot determine whether legible ten-print fingerprints~~
20 ~~were taken from the arrestee, the booking agency shall take the arrestee's~~
21 ~~ten-print fingerprints.~~ The ~~arresting authority or~~ booking agency shall
22 obtain a process control number and provide to the person fingerprinted a
23 document that indicates proof of the fingerprinting and that informs the
24 person that the document must be presented to the court.

25 2. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION, IF A PERSON
26 IS SUMMONED TO COURT AS A RESULT OF AN INDICTMENT OR COMPLAINT FOR AN OFFENSE
27 LISTED IN SUBSECTION C OF THIS SECTION, THE COURT SHALL ORDER THE PERSON TO
28 APPEAR BEFORE THE COUNTY SHERIFF AND PROVIDE LEGIBLE TEN-PRINT FINGERPRINTS.
29 THE COUNTY SHERIFF SHALL OBTAIN A PROCESS CONTROL NUMBER AND PROVIDE A
30 DOCUMENT TO THE PERSON FINGERPRINTED THAT INDICATES PROOF OF THE
31 FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT MUST BE
32 PRESENTED TO THE COURT.

33 3. IF A PERSON IS ARRESTED FOR A MISDEMEANOR OFFENSE LISTED IN
34 SUBSECTION C OF THIS SECTION AND RELEASED FROM CUSTODY PURSUANT TO SECTION
35 13-3903, SUBSECTION C, THE PERSON SHALL APPEAR BEFORE THE LAW ENFORCEMENT
36 AGENCY THAT ARRESTED THE DEFENDANT AND PROVIDE LEGIBLE TEN-PRINT
37 FINGERPRINTS. THE LAW ENFORCEMENT AGENCY SHALL OBTAIN A PROCESS CONTROL
38 NUMBER AND PROVIDE A DOCUMENT TO THE PERSON FINGERPRINTED THAT INDICATES
39 PROOF OF THE FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT
40 MUST BE PRESENTED TO THE COURT.

41 ~~2-~~ 4. The mandatory fingerprint compliance form shall contain the
42 following information:

- 43 (a) Whether ten-print fingerprints have been obtained from the person.
44 (b) Whether a process control number was obtained.

(c) The offense or offenses for which the process control number was obtained.

(d) Any report number of the arresting authority.

(e) Instructions on reporting for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.

(f) Instructions that direct the person to provide the form to the court at the person's next court appearance.

~~3-~~ 5. Within ten days after a person is fingerprinted, the arresting authority or agency that took the fingerprints shall forward the fingerprints to the department in the manner or form required by the department.

~~4-~~ 6. On the issuance of a summons for a defendant who is charged with an offense listed in subsection C of this section, the summons shall direct the defendant to provide ten-print fingerprints to the appropriate law enforcement agency.

~~5-~~ 7. At the initial appearance or on the arraignment of a summoned defendant who is charged with an offense listed in subsection C of this section, if the person does not present a completed mandatory fingerprint compliance form to the court or if the court has not received the process control number, the court shall order that within twenty calendar days the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

~~6-~~ 8. If the defendant fails to present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court, on its own motion, may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

~~7-~~ 9. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

~~8-~~ 10. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3 shall be reported to the central state repository within forty days of the date of the disposition. This information shall be submitted on a form or in a manner specified by rules approved by the supreme court.

~~9-~~ 11. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3. The state department of corrections or the

1 department of juvenile corrections shall also report dispositions that occur
2 thereafter to the central state repository within forty days of the date of
3 the dispositions. This information shall be submitted on a form or in a
4 manner required by the department of public safety.

5 ~~10-~~ 12. Each criminal justice agency shall query the central state
6 repository before dissemination of any criminal history record information to
7 ensure the completeness of the information. Inquiries shall be made before
8 any dissemination except in those cases in which time is of the essence and
9 the repository is technically incapable of responding within the necessary
10 time period. If time is of the essence, the inquiry shall still be made and
11 the response shall be provided as soon as possible.

12 V. The director shall adopt rules specifying that any agency that
13 collects, stores or disseminates criminal justice information that is subject
14 to this section shall establish effective security measures to protect the
15 information from unauthorized access, disclosure, modification or
16 dissemination. The rules shall include reasonable safeguards to protect the
17 affected information systems from fire, flood, wind, theft, sabotage or other
18 natural or man-made hazards or disasters.

19 W. The department shall make available to agencies that contribute to,
20 or receive criminal justice information from, the central state repository or
21 through the Arizona criminal justice information system a continuing training
22 program in the proper methods for collecting, storing and disseminating
23 information in compliance with this section.

24 X. Nothing in this section creates a cause of action or a right to
25 bring an action including an action based on discrimination due to sexual
26 orientation.

27 Y. For the purposes of this section:

28 1. "Administration of criminal justice" means performance of the
29 detection, apprehension, detention, pretrial release, posttrial release,
30 prosecution, adjudication, correctional supervision or rehabilitation of
31 criminal offenders. Administration of criminal justice includes enforcement
32 of criminal traffic offenses and civil traffic violations, including parking
33 violations, when performed by a criminal justice agency. Administration of
34 criminal justice also includes criminal identification activities and the
35 collection, storage and dissemination of criminal history record information.

36 2. "Administrative records" means records that contain adequate and
37 proper documentation of the organization, functions, policies, decisions,
38 procedures and essential transactions of the agency and that are designed to
39 furnish information to protect the rights of this state and of persons
40 directly affected by the agency's activities.

41 3. "Arizona criminal justice information system" or "system" means the
42 statewide information system managed by the director for the collection,
43 processing, preservation, dissemination and exchange of criminal justice
44 information and includes the electronic equipment, facilities, procedures and
45 agreements necessary to exchange this information.

1 4. "BOOKING AGENCY" MEANS THE COUNTY SHERIFF OR, IF A PERSON IS BOOKED
2 INTO A MUNICIPAL JAIL, THE MUNICIPAL LAW ENFORCEMENT AGENCY.

3 ~~4.~~ 5. "Central state repository" means the central location within
4 the department for the collection, storage and dissemination of Arizona
5 criminal history records and related criminal justice information.

6 ~~5.~~ 6. "Criminal history record information" and "criminal history
7 record" means information that is collected by criminal justice agencies on
8 individuals and that consists of identifiable descriptions and notations of
9 arrests, detentions, indictments and other formal criminal charges, and any
10 disposition arising from those actions, sentencing, formal correctional
11 supervisory action and release. Criminal history record information and
12 criminal history record do not include identification information to the
13 extent that the information does not indicate involvement of the individual
14 in the criminal justice system or information relating to juveniles unless
15 they have been adjudicated as adults.

16 ~~6.~~ 7. "Criminal justice agency" means either:

17 (a) A court at any governmental level with criminal or equivalent
18 jurisdiction, including courts of any foreign sovereignty duly recognized by
19 the federal government.

20 (b) A government agency or subunit of a government agency that is
21 specifically authorized to perform as its principal function the
22 administration of criminal justice pursuant to a statute, ordinance or
23 executive order and that allocates more than fifty percent of its annual
24 budget to the administration of criminal justice. This subdivision includes
25 agencies of any foreign sovereignty duly recognized by the federal
26 government.

27 ~~7.~~ 8. "Criminal justice information" means information that is
28 collected by criminal justice agencies and that is needed for the performance
29 of their legally authorized and required functions, such as criminal history
30 record information, citation information, stolen property information,
31 traffic accident reports, wanted persons information and system network log
32 searches. Criminal justice information does not include the administrative
33 records of a criminal justice agency.

34 ~~8.~~ 9. "Disposition" means information disclosing that a decision has
35 been made not to bring criminal charges or that criminal proceedings have
36 been concluded or information relating to sentencing, correctional
37 supervision, release from correctional supervision, the outcome of an
38 appellate review of criminal proceedings or executive clemency.

39 ~~9.~~ 10. "Dissemination" means the written, oral or electronic
40 communication or transfer of criminal justice information to individuals and
41 agencies other than the criminal justice agency that maintains the
42 information. Dissemination includes the act of confirming the existence or
43 nonexistence of criminal justice information.

1 ~~10.~~ 11. "Management control":
2 (a) Means the authority to set and enforce:
3 (i) Priorities regarding development and operation of criminal justice
4 information systems and programs.
5 (ii) Standards for the selection, supervision and termination of
6 personnel involved in the development of criminal justice information systems
7 and programs and in the collection, maintenance, analysis and dissemination
8 of criminal justice information.
9 (iii) Policies governing the operation of computers, circuits and
10 telecommunications terminals used to process criminal justice information to
11 the extent that the equipment is used to process, store or transmit criminal
12 justice information.
13 (b) Includes the supervision of equipment, systems design, programming
14 and operating procedures necessary for the development and implementation of
15 automated criminal justice information systems.
16 ~~11.~~ 12. "Process control number" means the Arizona automated
17 fingerprint identification system number that attaches to each arrest event
18 at the time of fingerprinting and that is assigned to the arrest fingerprint
19 card, disposition form and other pertinent documents.
20 ~~12.~~ 13. "Secondary dissemination" means the dissemination of criminal
21 justice information from an individual or agency that originally obtained the
22 information from the central state repository or through the Arizona criminal
23 justice information system to another individual or agency.
24 ~~13.~~ 14. "Sexual orientation" means consensual homosexuality or
25 heterosexuality.
26 ~~14.~~ 15. "Subject of record" means the person who is the primary
27 subject of a criminal justice record.